

**LOUISIANA PUBLIC SERVICE COMMISSION**  
**MINUTES FROM SEPTEMBER 7, 2011**  
**OPEN SESSION**

***MINUTES OF SEPTEMBER 7, 2011 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN JIMMY FIELD, VICE CHAIR CLYDE HOLLOWAY AND COMMISSIONERS FOSTER CAMPBELL, LAMBERT BOISSIERE AND ERIC SKRMETTA. ALSO PRESENT WAS EVE KAHAO GONZALEZ.***

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Open Session of September 7, 2011, convening at 9:21 A.M. and adjourning at 1:26 P.M., Natchez Room, 602 N. 5<sup>th</sup> Street, 1<sup>st</sup> Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1                      Announcements

Commissioner Skrmetta reminded everyone that the October 12, 2011 B&E will be held in the Supreme Court Chambers in New Orleans, LA.

Commissioner Skrmetta congratulated the Baton Rouge Staff on their hard work at GOHSEP during the recent storm. He further thanked his Staff for their hard work locally. He also specifically thanked Jon Vranic of DEMCO, Dennie Williams of CLECO, Coylean Schloegel of WST, and Millie Adams and Mark Kleehammer of Entergy for their assistance in his area.

Commissioners Boissiere and Field joined in Commissioner Skrmetta's comments regarding the utility companies.

Commissioner Boissiere announced that Gayle Kellner's son will be coming home from his tour of duty in the Persian Gulf soon and thanked Ms. Kellner and her son for their service and support.

Ex. 2                      **T-31905** - Inter-Tour Louisiana, Inc. (New Orleans, Louisiana), ex parte. In re: Application to amend current tariff rates for LPSC 5899-A.

**In re: Discussion and Possible Vote on Stipulated Agreement Pursuant to Rule 57**

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement between Staff and the Carrier granting the following increase in the tariff: First Three Hours or Less - \$195; Over 3 to 8 Hours - \$520; Each Additional Hour - \$65; Maximum (24 Hours) Period - \$750; Per live Mile - \$2.08; Per Deadhead Mile - \$1.88.

Ex. 3                      **T-31921** - Dual Trucking, Inc., (Scott, Louisiana), ex parte. In re: Application to increase hourly rates for LPSC 5151-I from \$75.00 to \$80.00.

**In re: Discussion and Possible Vote on Stipulated Agreement Pursuant to Rule 57.**

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement between Staff and the Company, granting the rate increase as per Staff Auditor's following recommendations: 1) The Company is granted the LPSC recommended increase, that is, that the hourly rate for services be increased from \$75.00 to \$78.75 for an increase of \$3.75 per hour or a 5% increase based upon the Consumer Price Index or "CPI"; 2) If approved, the Company is to send a copy of the revised tariff to the LPSC Transportation Division to be published on the

Commission website; and 3) The Company be in full compliance with all LPSC Transportation rules and regulations.

Commissioner Field directed Staff to look into whether there is a more appropriate index to use in the future for increases.

Ex. 4      **T-31954** - Fitzgerald Trucking, LLC (Ruston, Louisiana) and JC Fitzgerald Energy Services, LLC (Shreveport, Louisiana), ex parte. In re: Joint petition for the sale and transfer of all rights, title, and interest in Common Carrier Certificate No. 7560 from the former to the latter.

**In re: Discussion and possible vote pursuant to Rule 57.**

**At the request of Commissioner Campbell.**

On motion of Commissioner Campbell, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up pursuant to Rule 57.

On motion of Commissioner Campbell, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the sale of assets and Common Carrier Certificate No. 7560 by Fitzgerald Trucking, LLC to JC Fitzgerald Energy Services, LLC.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to take a matter up out of order.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to exempt common and contract carriers from the LPSC General Order dated March 19, 1994.

Ex. 5      **U-31121** - Washington-St. Tammany Electric Cooperative, Inc., ex parte. In re: Application for establishment of regulatory asset and rate rider related to Hurricane Gustav and December 2008 Snow Storm.

**In re: Discussion and possible vote to approve Joint Stipulation.**

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the uncontested proposed stipulation as agreed upon by the parties and filed into the record of this proceeding.

Ex. 6      **U-31364** - Bellsouth Telecommunications, Inc. D/B/A AT&T Southeast D/B/A AT&T Louisiana versus Image Access, Inc. D/B/A New Phone; Budget Prepay, Inc. D/B/A Budget Phone D/B/A Budget Phone, Inc.; BLC Management, LLC D/B/A Angles Communications Solutions D/B/A Mexicall Communications; dPi Teleconnect, LLC; and Tennessee Telephone Service, Inc. D/B/A Freedom Communications USA, LLC. In re: Consolidated Proceeding to Address Certain Issues Common to Dockets U-31256, U-31257, U-31258, U-31259, and U-31260.

Following Oral Argument from Staff, Resellers, and AT&T, Commissioner Holloway made a motion to remand this matter back to the ALJ. Commissioner Boissiere made a substitute motion to accept the ALJ Recommendation, which was seconded by Commissioner Campbell. Commissioners Field, Skrmetta and Holloway objected. Therefore the motion died for a lack of majority. Commissioner Holloway then re-urged his initial motion to remand the matter back to the ALJ for further consideration of the methodology to be applied to cash back promotions, with Commissioners Field, Boissiere and Skrmetta voting yes to remand and Commissioner Campbell voting no.

Ex. 7      **U-32058** - AEP Southwestern Transmission Company Inc. and Southwestern Electric Power Company (SWEPCO), ex parte.. In re: Application of AEP Southwestern Transmission Company Inc. and Southwestern Electric Power Company (SWEPCO) for Recognition of AEP Southwestern Transmission Company Inc., as a Public Utility, with all Rights and Obligations attendant thereto, including but not limited to the Right to Own and Operate Transmission

Facilities in the State of Louisiana, and with all Necessary Approvals being Granted to SWEPCO.

**In re: Request to issue RFP for outside consultant to assist Staff in this matter.**

On motion of Commissioner Campbell, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and authorize the issuance of RFPs for outside consultant to assist Staff in this matter.

- Ex. 8      **U-31952** - Atmos Energy Corporation, ex parte.. In re: Petition of Atmos Energy Corporation requesting removal of the "dead band" component of the Weather Normalization Adjustment as set forth in LPSC Order No. U-28814 - Consolidated (corrected) dated July 19, 2006 for its regulatory divisions.

**In re: Discussion and Possible Vote on Proposed Joint Stipulation.**

On motion of Commissioner Holloway, seconded by Commissioner Skrmetta, with Commissioners Field and Campbell concurring and Commissioner Boissiere temporarily absent, the Commission voted to accept the Staff Recommendation and approve the Joint Stipulation executed by Staff and by Atmos Energy Corporation, and accordingly that the WNAs for Atmos' Trans La and LGS regulatory divisions be extended as an ongoing component of the two rate divisions' RSCs, and that the "dead band" component of the WNAs be eliminated effective immediately.

- Ex. 9      **U-32031** - Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Application of Entergy Gulf States Louisiana, L.L.C. for authorization to participate in an MSS-4 contract with Entergy Texas, Inc. for the purchase of capacity and energy from the Carville Energy Center associated with the contract between Entergy Texas, Inc. and Calpine Energy Services, L.P.

**In re: Discussion and possible vote to retain consultant to assist Staff with this proceeding.**

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to retain the consulting firm of Exeter Associates, Inc. for a budget of \$46,500 for professional services and \$4,500 in expenses, for a total budget of \$51,000 to assist Staff in this matter.

- Ex. 10      **R-29380 Subdocket B** - Louisiana Public Service Commission, ex parte. In re: An Investigation Into the Ratemaking and Generation Planning Implications of the U.S. EPA Clean Air Interstate Rule.

**In re: 1) Discussion and possible vote to hire an outside counsel to assist Staff in this matter and 2) Discussion and possible vote to increase the budget of Acadian Consulting.**

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to retain the firm of Bradley Murchison Kelly and Shea LLC for professional fees not to exceed \$67,500 plus expenses not to exceed \$15,000 for a total budget of \$82,500 to assist Staff in this matter.

On motion of Commissioner Holloway, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to approve the extension of Acadian Consulting Group budget up to \$45,650 in professional fees with no charge for expenses.

- Ex. 11      **R-29380 Subdocket B** - Louisiana Public Service Commission, ex parte. In re: An Investigation Into the Ratemaking and Generation Planning Implications of the U.S. EPA Clean Air Interstate Rule.

**In re: Discussion and possible vote on Staff's Recommended next steps.**

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation as follows: 1) That the Commission authorize Staff, with the assistance of outside counsel, to file a petition for reconsideration, along with a request for stay, before the EPA; 2) That the Commission authorize

Staff, with the assistance of outside counsel and in conjunction with other state agencies, to file a petition for judicial review and request for stay in the Court of Appeals for the DC Circuit; and 3) That the Commission submit a letter to the EPA notifying the EPA of its concerns with regard to the rule and its intent to file a request for reconsideration with the agency.

Ex. 12      **R-30479** - LPSC, ex parte. In re: Development of a funding mechanism for jurisdictional gas utilities for research and development programs.

**In re: Discussion and Possible Vote to Continue the Louisiana Research & Development Committee and Research & Development Charge Created by the General Order dated October 28, 2008.**

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and continue all provisions of the General Order dated October 28, 2008 and remain in effect for a period of three years, after which time Staff and the members of the RDC must review the results of the R&D funding mechanism in order to determine if that funding mechanism should be continued or whether it should be cancelled.

Ex. 13      **S-31838** - Claiborne Ward Nine Water System, Inc., ex parte. In re: Request for a rate increase (non-profit system).

**In re: Discussion and possible vote on Staff Recommendation.**

**PASSED**

Ex. 14      **S-31849** - Summerfield Water Systems, Inc., ex parte. In re: Request for an increase in water rates (non-profit system).

**In re: Discussion and possible vote on Staff Recommendation.**

**PASSED**

Ex. 15      **S-31851** - i-wireless, LLC, ex parte. In re: Petition for designation as an ETC for the purposes of receiving low income (lifeline only) USF support.

**In re: Discussion and possible vote on Staff Recommendation.**

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and find that i-wireless has met the requirements of the Communications Act of 1934 for designation as an ETC in the State of Louisiana for the purposes of low income universal support only and that such designation is in the public interest, and therefore order: 1) That i-wireless' designation be limited to Lifeline universal service support; 2) That i-wireless be ineligible to receive federal high cost universal service support; 3) That if i-wireless should be designated as an ETC, such designation will have no effect on the definition of rural LEC study areas; 4) That if i-wireless should be designated as an ETC, such designation will have no ability to affect the designation of rural LEC study areas on a going forward basis; 5) To the extent that any provisions of General Order R-27841 are applicable to i-wireless, the Company shall be required to comply. 6) That as part of the Lifeline services provided by i-wireless in Louisiana, the Company be required to comply with the June 25, 2010, FCC Order granting in part, and denying in part, i-wireless' request for forbearance from the facilities requirement as detailed in Staff's recommendation.

Ex. 16      **S-31932** - NewPhone Wireless, LLC, ex parte.. In re: Application of NewPhone Wireless, LLC for Designation as a Non-Rural Eligible Telecommunications Carrier for Low Income Support Only.

**In re: Discussion and possible vote on Staff Recommendation.**

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and find that 1) NewPhone

Wireless, L.L.C. has met the requirements of the Communications Act of 1934 for designation as an ETC in those areas served by BellSouth Telecommunications, Inc. d/b/a AT&T Louisiana and 2) NewPhone Wireless should be designated as an Eligible Telecommunications Carrier as requested in their Application for Designation as an Eligible Telecommunications Carrier filed on May 4, 2011

- Ex. 17 Presentation by CLECO regarding any money savings and/or trade benefits realized by ratepayers should CLECO join an RTO.

**PASSED**

- Ex. 18 1) Reports  
2) Resolutions  
3) Discussions

Commissioner Skrmetta directed Staff to open a rulemaking process regarding the following common carrier vehicles under the jurisdiction of the LPSC: Taxis, Limousines and Small capacity buses. Further, to develop rules of Standards and Registration for these vehicles and their operators as read into the record. The Proposed Passengers Bill of Rights should include the provisions read into the record. Commissioner Skrmetta further directed LPSC staff to expedite this process and return it to the commission for review and possible vote at the earliest time.

- Ex. 19 **R-31891** - Louisiana Public Service Commission, ex parte. In re: Review and Update of the Regulations and Guidelines of the Louisiana Public Service Commission Applicable to Customer Owned Coin Operated Telephone Service Providers and Alternate Operator Service Providers.

**In re: Discussion and Possible Vote to Hire Outside Counsel to Assist Staff in this Matter.**

**At the request of Commissioner Campbell.**

On motion of Commissioner Campbell, seconded by Commissioner Field, and unanimously adopted, the Commission voted to retain the firm of Stone Pigman for a budget of \$46,500 in legal fees plus expenses not to exceed \$2,500 for a total budget of \$49,000 to assist Staff in this matter.

- Ex. 20 Possible implementation of Interim Rule 67 of the Commission's Rules of Practice and Procedure (300 foot rule disputes).

**At the request of Commissioner Skrmetta.**

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the interim Rule 67 as published in the Commission's Official Bulletin dated September 2, 2011 pending formal adoption with one correction as read into the record.

- Ex. 21 **R-29380 Subdocket B** - Louisiana Public Service Commission, ex parte. In re: An Investigation Into the Ratemaking and Generation Planning Implications of the U.S. EPA Clean Air Interstate Rule.

**In re: Possible Executive Session pursuant to La. R.S. 42:17 to discuss litigation strategy.**

**At the request of Commissioner Holloway.**

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Holloway, seconded by Commissioner Field, with Commissioners Boissiere and Skrmetta concurring and Commissioner Campbell temporarily absent, the Commission voted to come out of Executive Session.

**MEETING ADJOURNED**

The next Business and Executive Session will be held October 12, 2011 at 9:00 a.m. in New Orleans, Louisiana.